

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA
NEW BERN DIVISION**

IN RE:

ROBERT W. STEELE, II,
DEBTOR.

**CASE NO. 17-03844-5-JNC
CHAPTER 11**

**SWIFT FINANCIAL CORPORATION t/a
SWIFT CAPITAL,**

Plaintiff,

vs.

ADV. PRO. NO. 17-00081-5-JNC

ROBERT W. STEELE, II,
Defendant.

MOTION TO DISMISS

NOW COMES Debtor-Defendant ROBERT W. STEELE, II (“Defendant” or “Debtor”), by and through his undersigned counsel of record and pursuant to Rule 12 of the Federal Rules of Civil Procedure, made applicable to the above-captioned adversary proceeding by Rules 7008, 7009, and 7012 of the Federal Rules of Bankruptcy Procedure, hereby moves the Court for entry of an Order dismissing, with prejudice, all of the claims for relief asserted in the Complaint to Determine Dischargeability of a Debt [D.E. 1] (the “Complaint”) filed by Plaintiff SWIFT FINANCIAL CORPORATION t/a SWIFT CAPITAL (“Plaintiff”) in the above-captioned adversary proceeding.

As set forth in the Memorandum of Law in Support of Motion to Dismiss (the “Memorandum”) filed contemporaneously herewith, all of the claims for relief asserted by Plaintiff in the Complaint, should be dismissed with prejudice, pursuant to Rule 12(b)(6) of the

Federal Rules of Civil Procedure, made applicable to the above-captioned adversary proceeding by Rule 7012 of the Federal Rules of Bankruptcy Procedure, for failing to state claims upon which relief may be granted.

WHEREFORE, based upon the foregoing and for the reasons set forth in the accompanying Memorandum, Defendant respectfully requests that all of the claims for relief asserted by Plaintiff, in the Complaint, be dismissed with prejudice, and such further relief as the Court deems necessary and proper.

Respectfully submitted this, the 12th day of January, 2018.

STUBBS & PERDUE, P.A.

BY: s/Blake Y. Boyette

BLAKE Y. BOYETTE, NCSB No. 44239
bboyette@stubbssperdue.com

JOSEPH Z. FROST, NCSB No. 44387
jfrost@stubbssperdue.com

310 Craven Street
New Bern, North Carolina 28560
Telephone: (252) 633-2700
Facsimile: (252) 633-9600

Counsel for Debtor-Defendant Robert W. Steele, II

CERTIFICATE OF SERVICE

I, Blake Y. Boyette, 310 Craven Street, PO Box 1654, New Bern, NC 28563, certify:

That I am, and at all times hereinafter mentioned was, more than eighteen (18) years of age;

That on the date shown below I served copies of the foregoing pleading on the parties listed below by depositing a copy in the United States mail bearing sufficient postage or electronically as indicated; and,

I certify under penalty of perjury that the foregoing is true and correct.

EXECUTED ON: 1/12/18

/s/Blake Y. Boyette
Blake Y. Boyette, NCSB No. 44239
bboyette@stubbssperdue.com
310 Craven Street
P.O. Box 1654
New Bern, NC 28563-1654
(252) 633-2700
(252) 633-9600 Facsimile

TO:

Bankruptcy Administrator
434 Fayetteville Street, Suite 640
Raleigh, NC 27601

(via U.S. Mail & CM/ECF)

James A. Beck, II
VANN ATTORNEYS, PLLC
PO Box 2445
Raleigh, NC 27602-2445
Counsel for Plaintiff

(via U.S. Mail & CM/ECF)

Robert W. Steele, II
201 Saint Charles Lane
Jacksonville, NC 28546

(via U.S. Mail)